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~~TOP SECRET//COMINT//NOFORN~~
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

30 November 2010

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U//~~FOUO~~) Report to the Intelligence Oversight Board on NSA Activities - INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that intelligence activities of the National Security Agency during the quarter ending 30 September 2010 were unlawful or contrary to Executive Order or Presidential Directive and thus should have been reported pursuant to Section 1.6(c) of Executive Order 12333, as amended.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

[redacted]

GEORGE ELLARD
Inspector General

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MATTHEW G. OLSEN
General Counsel

(U//~~FOUO~~) I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

KEITH B. ALEXANDER
General, U. S. Army
Director, NSA/Chief, CSS

Encl:
Quarterly Report

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Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

I. (U) Intelligence, Counterintelligence, and Intelligence-Related Activities that Violate Law, Regulation, or Policy and Were Substantiated during the Quarter, as well as Actions Taken as a Result of the Violations

A. (U) Intelligence Activities under Executive Order (E.O.) 12333 Authority

(U) Unintentional Collection against U.S. Persons or Foreign Persons in the United States

~~(S//REL TO USA, FVEY)~~ In this quarter, there were [ ] instances in which Signals Intelligence (SIGINT) analysts inadvertently targeted or collected communications to, from, or about U.S. persons while pursuing foreign intelligence tasking. All intercepts and reports have been deleted or destroyed as required by United States SIGINT Directive (USSID) SP0018.

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1. (U) Targeting

~~(TS//SI//REL TO USA, FVEY)~~ [ ] an NSA analyst discovered that a telephone selector for a valid foreign intelligence target remained tasked while the target was in the United States. The tasking error occurred because information that the target [ ] the United States on [ ] was not properly communicated. The selector was detasked on [ ] [ ] There was no collection between [ ] The target departed the United States on [ ]

~~(TS//SI//REL TO USA, FVEY)~~ [ ] an NSA analyst discovered that a selector for a valid foreign intelligence target remained tasked while the target was in the United States. The tasking error occurred because the analyst overlooked the target's selector on a list of selectors to be detasked. There was no collection from [ ] the period of the visit.

~~(TS//REL TO USA, FVEY)~~ [ ]
NSA analysts discovered that they had tasked telephone selectors associated with U.S. persons. The tasking errors occurred because information identifying that the selectors were associated with U.S. persons was not included in the source information when the selectors were tasked. All collection was deleted, and no reports were issued.

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~~(TS//SI//REL TO USA, FVEY)~~ [ ] an NSA analyst discovered that an e-mail selector for a valid foreign intelligence target remained tasked while the target was in the United States. Although the analyst [ ] the United States on [ ] [ ] the tasking error occurred because the analyst erroneously believed that the selector would be detasked by another team. The selector was detasked [ ] All collection was deleted, and no reports were issued.

~~(TS//SI//NF)~~ [ ] an NSA analyst discovered that telephone selectors for a valid foreign intelligence target (tasked under E.O. 12333) remained tasked while the target was

Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20320108

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(b)(3)-50 USC 3024(i)

in the United States from [redacted]. The tasking error occurred because the analyst overlooked [redacted] No collection resulted from the tasking. Because the discovery was made after the target departed the United States, the target's selectors were not detasked.

~~(S//REL TO USA, FVEY)~~ [redacted] NSA analysts discovered that selectors for valid foreign intelligence targets remained tasked while the targets were in the United States. The tasking errors occurred because [redacted] was not being reviewed on a regular basis. Because the discoveries were made after the targets departed the United States, the targets' selectors were not detasked.

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(b)(3)-50 USC 3024(i)

2. (U) **Database Queries**

~~(S//REL TO USA, FVEY)~~ On [redacted] occasions, analysts performed overly broad or poorly constructed database queries that potentially targeted U.S. persons. For example, these queries [redacted] that produced imprecise results. On [redacted] of those occasions, the queries returned results from the database. The query results were deleted, and no reports were issued. Procedural errors contributed to the following incidents.

- ~~(S//SI//REL TO USA, FVEY)~~ [redacted] a SIGINT analyst queried a raw traffic database using telephone selectors associated with a valid foreign intelligence target when the target was known to be in the United States. The analyst self-reported the incident on [redacted] to an auditor, who also noticed the query. All results were deleted, and no reports were issued.
- ~~(S//REL TO USA, FVEY)~~ On [redacted] occasions between [redacted] NSA analysts queried raw traffic databases using selectors associated with U.S. persons. The analysts neglected to perform the required research on the selectors before performing the queries. All results were deleted.

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- ~~(S//SI//REL TO USA, FVEY)~~ [redacted] a SIGINT analyst queried a raw traffic database with telephone selectors associated with a valid foreign intelligence target using dates during which the target was in the United States. After submitting the query, the analyst recalled that the target had been in the United States during the range of dates submitted. All results were deleted, and no reports were issued.
- ~~(S//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst continued to query a raw traffic database using selectors associated with a valid foreign intelligence target known by the analyst to be in the United States during this period. The analyst misunderstood the procedures for querying selectors in a raw traffic database. The queries did not return any results.
- ~~(S//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst discovered that [redacted] while that target was in the United States. [redacted] an NSA analyst received information [redacted] detasked

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the selectors [redacted] the United States. The analyst failed to [redacted] the United States. As a result, traffic continued to be retrieved during this period. The analyst deleted all results from the queries once the error was discovered [redacted] No reports were issued.

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- ~~(TS//SI//REL TO USA, FVEY)~~ [redacted] NSA analysts initiated queries in a raw traffic database using e-mail selectors associated with the same valid foreign intelligence target without realizing that the target was in the United States as of [redacted] The error occurred because the target's travel to the United States was not properly communicated within the analyst's office. All results from the queries were deleted on [redacted] and no reports were issued.

- ~~(TS//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst queried raw traffic databases using telephone selectors associated with a valid foreign intelligence target that had been detasked because of the target's arrival in the United States on [redacted] The error occurred because the target's arrival was not properly communicated within the office. All results were deleted, and no reports were issued.

- ~~(TS//SI//REL TO USA, FVEY)~~ An NSA analyst failed to [redacted] in a raw traffic database for telephone selectors associated with [redacted] valid foreign intelligence targets who were in the United States between [redacted] before departing overseas for temporary duty. The queries and all results were deleted [redacted] and no reports were issued.

B. (U) Dissemination of U.S. Identities

~~(TS//SI//REL USA, FVEY)~~ The NSA Enterprise issued [redacted] SIGINT product reports during this quarter. In those reports, SIGINT analysts disseminated communications to, from, or about U.S. persons or entities on [redacted] occasions while pursuing foreign intelligence tasking. In a total of [redacted] SIGINT products, such disseminations were found to be improper and the reports were canceled as NSA [redacted] analysts learned of U.S. persons, organizations, or entities named without authorization. All data in the canceled reports was deleted as required, and the reports were not reissued or were reissued with proper minimization.

C. (U) The Foreign Intelligence Surveillance Act (FISA)

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1. (U) NSA/CSS Title I FISA

a. (U) Tasking Error

~~(TS//SI//NF)~~ On [redacted] an NSA analyst discovered that [redacted] selector authorized for tasking and collection under an NSA Foreign Intelligence Surveillance Court (FISC) Order was [redacted] not a valid foreign intelligence target as was originally believed. The telephone selector was included in NSA's FISA application in error.

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The selector was detasked on [redacted] All collection was purged, and no reports were issued.

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~~(TS//SI//NF)~~ [redacted]

~~(TS//SI//NF)~~ [redacted] while collecting against a [redacted] pursuant to an NSA FISC Order, NSA targeted, without authorization. [redacted]
All collection will be purged, and no reports were issued.

~~(TS//SI//NF)~~ [redacted] an NSA analyst discovered that [redacted] by a valid foreign intelligence target in the United States were tasked without proper authority. The error occurred because an NSA FISC Order, which was renewed on [redacted] specified that only [redacted] authorized under the order could be tasked. The previous order allowed collection and tasking of [redacted]. Not all members of the [redacted] could be proved to be [redacted] authorized under the order. [redacted] were detasked [redacted] All queries and results were deleted, and no reports were issued.

2. (U) FISA Amendments Act (FAA)

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(b)(3)-50 USC 3024(i)

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a. (U) Section 702

i. (U) Unauthorized Targeting

~~(TS//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst used outdated information to task a selector for an FAA §702-authorized target. The selector was detasked on [redacted] A purge request is pending for all FAA §702 collection from [redacted]

~~(S//REL TO USA, FVEY)~~ On [redacted] an NSA analyst used outdated foreignness verifications to task a selector. NSA discovered the error on [redacted] and the selector was detasked the same day. No collection occurred from [redacted]

~~(TS//SI//REL TO USA, FVEY)~~ On [redacted] occasions between [redacted] NSA analysts discovered that selectors for valid foreign intelligence targets remained tasked while the targets were in the United States. The errors occurred because information revealing the targets' travel to the United States was not reviewed. A purge request is pending for all FAA §702 collection when the targets were in the United States.

~~(TS//SI//REL TO USA, FVEY)~~ [redacted] NSA discovered that an individual believed to be a valid foreign intelligence target was a U.S. person. The error occurred because information revealing the target's U.S. citizenship was not reviewed. [redacted] e-mail selectors associated with the target were detasked on [redacted] A purge request is pending for all FAA §702 collection [redacted]

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~~(TS//SI//REL TO USA, FVEY)~~ an NSA analyst discovered that the selectors associated with a valid foreign intelligence target remained tasked when the target entered the United States on . Although the analyst was aware of the target's the United States the analyst incorrectly believed that an NSA FISC Order allowed the target to remain on FAA §702 tasking while the target was in the United States. After realizing the error, the analyst detasked the selectors. A purge request for FAA §702 collection and no reports were issued.

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ii. (U) **Database Queries**

~~(TS//SI//NF)~~ an NSA analyst performed queries on a selector associated with a U.S. person raw traffic database, containing FAA §702-derived data. The analyst was unaware that the target was a U.S. person previously targeted under §704 and §705b authorization and failed to verify the selector before querying. The analyst deleted the query and results on

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iii. (U) **Tasking Error**

~~(TS//SI//REL TO USA, FVEY)~~ NSA analysts discovered that the selectors for valid foreign intelligence targets had been dual routed to an Intelligence Community customer under the incorrect FAA §702 certification. The selectors were detasked, and a purge request is pending for all data collected under the incorrect certification.

iv. (U) **Detasking Delays**

~~(TS//SI//REL TO USA, FVEY)~~ NSA analysts discovered that, as a result of a system tasking problem, collection against an FAA §702-authorized target continued days after the selector was detasked. On the cause of the system tasking problem was identified and corrected. The problem affected other selectors. All selectors have been properly detasked. All FAA §702 collection associated with this problem has been marked for deletion.

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~~(TS//SI//REL TO USA, FVEY)~~ NSA attempted to detask e-mail selectors associated with a valid foreign intelligence target; however, detasking was unsuccessful and collection continued for additional days. NSA has submitted a destruction waiver to retain specific traffic from one of the selectors. A purge request is pending for all other FAA §702 collection No reports based on data collected while the target was in the United States were issued.

~~(TS//SI//REL TO USA, FVEY)~~ NSA discovered that as a result of a the selectors for FAA §702-authorized targets were not fully detasked during the transition from FAA certification to FAA certification After the error was corrected, detasking was completed on

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~~(TS//SI//REL TO USA, FVEY)~~ collection continued on a selector tasked for a valid foreign intelligence target while that target was in the United States on NSA analysts overlooked for the selector. A purge request is pending for all FAA §702 collection from

b. (U) **Section 705b**

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i. (U) **Detasking Delays**

~~(TS//SI//REL TO USA, FVEY)~~ On NSA analysts discovered that the selectors for an FAA §705b-authorized target remained tasked after the authorization had expired The selectors were detasked on There was no collection.

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(b)(3)-50 USC 3024(i)

D. (U) **Other**

1. (U) **Unauthorized Access**

(U//~~FOUO~~) On NSA forwarded FISA-derived information in e-mails to NSA analysts not cleared for FISA access. Upon discovery of the error, the e-mails were recalled and deleted.

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(U//~~FOUO~~) On NSA determined that an NSA staff officer did not have authorized access to FISA data from Although the staff officer had the required FISA access in a previous job until access had not been restored for the current job. The staff officer was subsequently approved for access on

~~(S//REL TO USA, FVEY)~~ NSA discovered that analyst was accessing raw SIGINT databases from an unauthorized, secure facility. NSA/CSS reminded the that access to NSA raw SIGINT databases is granted only to personnel, missions, and facilities approved for access.

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(b)(3)-50 USC 3024(i)

2. (U) **Data-Handling Errors**

~~(TS//SI//NF)~~ an NSA analyst discovered FISA information collected under an NSA FISC Order The data was purged on The analyst who received notice of the incident and requests to purge the data was on extended temporary duty and did not read his e-mail until he returned in

~~(TS//SI//REL TO USA, FVEY)~~ On NSA analysts forwarded to a

analyst FAA §702-authorized traffic that included an unminimized reference to a U.S. person's identity. NSA requested that the traffic be purged from its databases, and analyst confirmed that this had occurred. NSA re-forwarded the properly minimized traffic to the

3. (U) **Consensual and Other Collection**

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~~(TS//SI//REL TO USA, FVEY)~~ an NSA analyst queried a raw traffic database using a U.S. person's telephone selector outside the DIRNSA-authorized period to query and task the selector. DIRNSA had authorized collection on telephone selectors associated with U.S. hostages. The authorization allowed tasking and querying on the selectors from forward but not before. an NSA analyst queried one of the telephone selectors using a date range The analyst deleted the query and the results No reports based on the query results were issued.

~~(S//NF)~~ an NSA analyst discovered that a consensual collection agreement from had expired. The selector remained tasked on The selector was detasked and there was no collection.

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4. (U) **Unauthorized Collection of COMSEC Monitoring Data**

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(U//~~FOUO~~) On . NSA/CSS analysts discovered that a system problem allowed collection on outside of the authorized technical data provided by the customer. An upgrade to software during is believed to have caused the system to The problem was fixed on All unauthorized collection will be removed.

(U//~~FOUO~~) On NSA analysts discovered that a system problem allowed collection on beyond the authorized period to monitor. All unauthorized collection was deleted. A manual fix to prevent the problem from recurring was put in place.

5. (U) **Computer Network Exploitation (CNE)**

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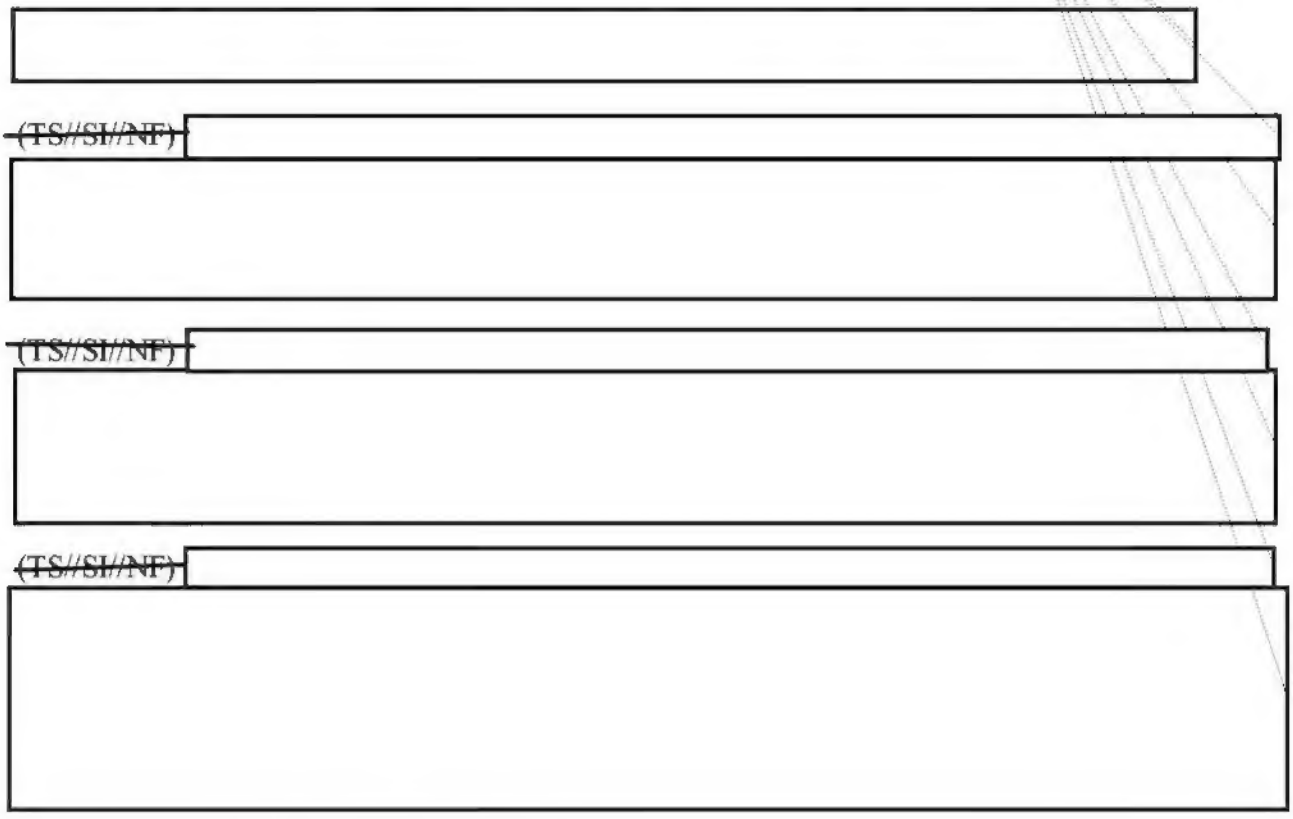

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E. (U) Counterintelligence Activities

(U) Nothing to report.

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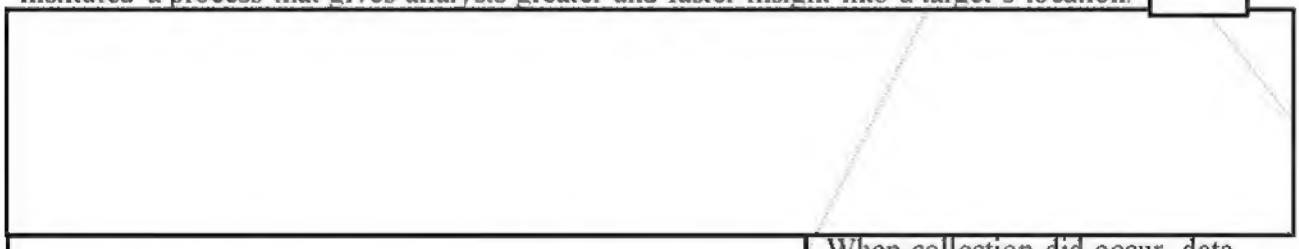
(b)(3)-50 USC 3024(i)

F. (U) Intelligence-Related Activities

~~(S//SI//NF)~~ To reduce the risk of unauthorized telephony collection and prevent violations, NSA instituted a process that gives analysts greater and faster insight into a target's location.



When collection did occur, data was purged from NSA's principal raw traffic repositories when required.

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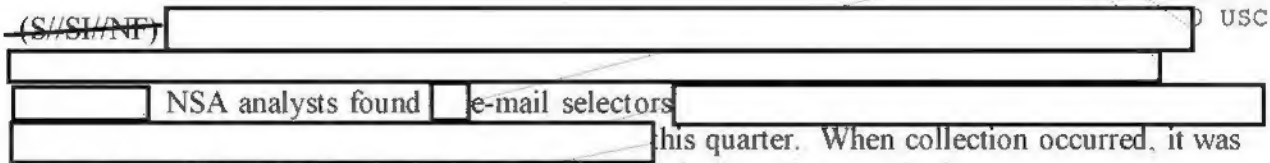

NSA analysts found e-mail selectors this quarter. When collection occurred, it was purged from NSA/CSS's principal raw traffic repositories when required.

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(U//~~FOUO~~) Although not violations of E.O. 12333 and related directives, NSA/CSS reports [redacted] instances in which database access was not terminated when access was no longer required. Once identified, the accesses were terminated. In addition, there were [redacted] instances of unauthorized access to raw SIGINT during the quarter.

~~(TS//SI//REL TO USA, FVEY)~~ [redacted]

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II. (U) NSA/CSS Office of the Inspector General (OIG) Intelligence Oversight (IO) Inspections, Investigations, and Special Studies

(U//~~FOUO~~) During this quarter, the OIG reviewed various intelligence activities of NSA/CSS to determine whether they had been conducted in accordance with statutes, Executive Orders, Attorney General procedures, and Department of Defense (DoD) and internal directives. With few exceptions, the problems uncovered were routine and showed that operating elements understand the restrictions on NSA/CSS activities.

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A. (U) Cryptologic Support Group (CSG) [redacted]

(U//~~FOUO~~) CSG [redacted] had no documented procedures for accomplishing IO training of [redacted] SIGINT personnel and for completing IO quarterly reporting. While the CSG Chief was designated as the IO Officer (IOO), no alternate IOO was designated. During the CSG Chief's extended absence, the site had no official IO point of contact. An alternate IOO, who was designated before the inspection began, is drafting standard operating procedures for IO training and for incident and quarterly reporting.

B. (U) [redacted]

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(U//~~FOUO~~) The [redacted] IO program has improved significantly since the 2007 inspection. The IO Program Manager (PM), now a full-time employee, has been in the position for four years, providing continuity for the site's IO program. The site's IO processes and procedures have been shared as a best practice with IO PMs throughout the extended enterprise. To assist in handling increased oversight responsibilities, the IO PM delegated certain IO functions to experienced personnel in key mission areas where there is risk for exposure to U.S. person information. Despite the delegation of functions, the IO PM does not have an officially designated alternate, creating a single point of failure. This was noted as a program weakness in previous inspections in 2004 and 2007. The OIG will track corrective actions.

C. (U) Misuse of the U.S. SIGINT System

(U) Nothing to report.

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(b)(3)-50 USC 3024(i)

D. (U) **Congressional and Intelligence Oversight Board Notifications**

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~~(TS//SI//NF)~~ [redacted] NSA/CSS provided an update to the Congressional intelligence committees on the continuing efforts to improve and refine its data purging process. [redacted] NSA is working on immediate and long-term solutions to these problems. This matter was reported to the FISC [redacted] A copy of the notification is enclosed.

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~~(S//REL TO USA, FVEY)~~ [redacted] NSA notified the Congressional intelligence committees about unauthorized disclosures of classified NSA-related information [redacted] notified the committees about the unauthorized disclosure of classified information on [redacted] A final security review has not been completed by all affected agencies. A copy of the notification is enclosed.

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E. (U) **Other Notifications**

~~(S//NF)~~ NSA has notified the Attorney General of [redacted] intelligence-related collection activities for U.S. person hostage cases.

III. (U) Substantive Changes to the NSA/CSS IO Program

(U) Nothing to report.

IV. (U) Changes to NSA/CSS Published Directives or Policies Concerning Intelligence, Counterintelligence, or Intelligence-Related Activities and the Reason for the Changes

(U) Nothing to report.

V. (U) Procedures Governing the Activities of DoD Intelligence Components that Affect U.S. Persons (DoD Directive 5240.1-R, Procedure 15) Inquiries or Matters Related to IO Programs

(U) Nothing to report.